

Brief Summary of NPDES Permit Program Legislation

The Federal Clean Water Act – Establishing the National Pollutant Discharge Elimination System Permit

The federal Clean Water Act (CWA, 1972, and later modifications, 1977, 1981, and 1987) established water quality goals for the navigable (surface) waters of the United States. One of the mechanisms for achieving the goals of the CWA is the National Pollutant Discharge Elimination System (NPDES) permitting program. In Washington, the Department of Ecology (Ecology) has been delegated authority to administer the NPDES permit program for most dischargers including most municipal stormwater discharges. Chapter 90.48 RCW defines Ecology's authority and obligations in administering the NPDES permit program.

In 1987 Congress amended the CWA to control industrial and municipal stormwater discharges to waters of the United States. Under the federal Clean Water Act the permit requirements for discharges from municipal separate storm sewer systems:

- i. May be issued on a system- or jurisdiction-wide basis;
- ii. Shall include a requirement to effectively prohibit non-stormwater discharges into the storm sewers; and
- iii. Shall require controls to reduce the discharge of pollutants to the maximum extent practicable, including management practices, control techniques and system, design and engineering methods, and such other provisions as the Administrator or the State determines appropriate for the control of such pollutants (33 U.S.C. §1342 (p)(3)(B)).

For municipal stormwater discharges, Congress phased in the NPDES permitting requirements. Phase I included medium and large municipalities (incorporated cities and unincorporated counties). In addition, other public entities that own and operate storm sewer systems located within the municipalities that meet the population thresholds are required to be covered under the permit program. Examples of other publicly-owned storm sewer systems include state highway systems, ports, drainage districts and flood control districts located within permitted municipalities. Municipalities with populations of 250,000 or more are defined as "large" while those with populations between 100,000 and 250,000 are defined as "medium" municipalities. In 1990 the EPA promulgated the phase I regulations.

In the 1987 CWA amendments, Congress directed EPA to study remaining sources of stormwater discharges and propose regulations, based on the study, to designate and control other stormwater sources. These regulations, commonly known as the phase II stormwater regulations, were adopted by the EPA in December 1999. The phase II rule extends coverage of the (NPDES) program to certain "small" municipal separate stormwater sewer systems (MS4s). Ecology didn't finalize the general permits to cover the additional counties and cities in Washington State covered by the Phase II rule until December 2006. Phase II rules were applied to jurisdictions in Washington State, including the City of Kenmore, via the Western Washington Phase II Municipal Stormwater Permit, which was issued on January 17, 2007. The Permit became effective on February 16, 2007 and expires on February 15, 2012.

Revised Code of Washington (RCW) and Washington Administrative Code (WAC)

Along with requirements in federal law, there are state law requirements for the control of pollution. Chapter RCW 90.48.010 establishes:

“...the public policy of the state of Washington (is) to maintain the highest possible standards to insure the purity of all waters of the state consistent with public health and public enjoyment thereof, the propagation and protection of wild life, birds, game, fish and other aquatic life, and the industrial development of the state, and to that end require the use of all known available and reasonable methods by industries and others to prevent and control the pollution of the waters of the state of Washington.”

Chapter 90.48 gives Ecology the jurisdiction to control and prevent pollution of streams, lakes, rivers, ponds, inland waters, salt waters, water courses, and other surface and underground waters of the state of Washington. Ecology is also designated as the state water pollution control agency for all purposes of the federal clean water act (including administration of NPDES permits).

Title 173 Washington Administrative Code (WAC) contains several important chapters for implementing components of the NPDES Permit Program. Water quality standards are established for ground waters and surface waters in chapters 173-200 and 173-201A, respectively. Sediment management standards are established in chapter 173-204 WAC. Procedures for issuing general permits are stated in chapter 173-226 WAC.

For further information:

Revised Code of Washington (RCW) can be found online:

<http://apps.leg.wa.gov/RCW/>

Washington Administrative Code (WAC) can be found online:

<http://apps.leg.wa.gov/WAC/>

A summary and complete text of the Clean Water Act (CWA) can be found online:

<http://www.epa.gov/lawsregs/laws/cwa.html>

A federal summary of the NPDES Permit Program can be found online:

<http://cfpub.epa.gov/npdes/>

A state summary and complete text of the NPDES Permit Program can be found online:

<http://www.ecy.wa.gov/programs/wq/stormwater/municipal/index.html>